



WRITTEN TESTIMONY BEFORE THE  
HOUSE COMMITTEE ON WAYS AND MEANS  
TRADE SUBCOMMITTEE

HEARING ON  
MODERNIZING CUSTOMS POLICIES  
TO PROTECT AMERICAN WORKERS  
AND SECURE SUPPLY CHAINS

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Chairman Smith, Ranking Member Blumenauer, and Members of the subcommittee, thank you for the opportunity to testify today. My name is Michael Kanko, and I am the CEO and co-founder of ImportGenius, a leading provider of supply chain intelligence to the global trade community.

Essentially, what ImportGenius does is make shipment records of imports and exports easily accessible and user-friendly, allowing users to understand the flow of goods around the world. This includes import and export data from 17 countries, but the data we started with, and which remains the most important today, is the publicly disclosed manifest data for the United States. This data includes important details about each waterborne commercial shipment coming into and exiting the United States—details such as the companies involved in the transaction, a description of the products and quantities in the shipment, the port of entry, the ocean carrier and vessel identity, and the departure and arrival dates.

Since 2007, ImportGenius has helped make the global supply chain more efficient and more transparent. Our customers include: (1) companies that use this data to evaluate and improve their supply chains and aid their regulatory compliance – nearly one out of five companies in the Fortune 500 have used our platform; (2) government agencies seeking to facilitate and stimulate commercial activity and enforce trade compliance; (3) academic institutions, individual market researchers, and trade policy thought leaders; and (4) investigative journalists and non-

governmental organizations working to keep consumers safe from counterfeit goods, stop forced labor, and save lives from deadly illicit drugs like fentanyl. Our data has been used as evidence in legal proceedings around the world. The diversity of our clients and the ways they use trade data show that supply chain transparency is both a commercial and a public benefit.

As Congress considers customs modernization legislation and U.S. Customs and Border Protection (CBP) continues its comprehensive effort to meet the demands of the modern global trade environment through the 21st Century Customs Framework, I urge you to consider ways to increase supply chain transparency for the benefit of American consumers and corporate stakeholders and to protect people around the world from human rights abuses.

Today, I would like to highlight a few examples of ImportGenius' work to demonstrate how supply chain transparency benefits American consumers, workers, and the public at large. The ImportGenius platform has helped law enforcement identify [banana shipments](#) containing smuggled drugs; uncovered forced labor from the Xinjiang region of China in the supply chain of products like [laptops](#), [refrigerators](#), [rubber gloves](#), and even [human hair](#). Earlier this year, we helped [identify](#) Chinese imports to a Russian body armor manufacturer with links to the Russian national guard and law enforcement. And earlier this month, our data platform helped journalists track Russian sanctions violations related to shipments of [aircraft parts](#) and [gold](#). During the initial days of the COVID-19 pandemic, we used maritime manifest data from container ships entering U.S. ports to better understand the supplies of critical products such as N95 masks and culture swabs for COVID-19 testing. All these efforts were thanks to the use of currently available shipment manifest data.

These examples are merely a fraction of the overwhelming evidence that makes one thing clear: we all benefit from robust supply chain transparency.

That is not a recent revelation. Even before America's founding, shipping manifests were published in port town newspapers. Currently, CBP publishes raw daily maritime data. ImportGenius uses this important CBP file combined with other layers of data to serve our customers. Unfortunately, manifests for commercial cargo arriving by air or land remain in the dark. These shipments escape transparency because the law only requires public disclosure of cargo arriving by ship. While most U.S. imports arrive by sea, that is only true when measuring by weight. Air and truck cargo currently [represents](#) 46.5 percent of U.S. import value, surpassing the nearly 43 percent arriving by maritime transport. By failing to publish air and land data, we are missing half the picture, including many high-value products.

One example is pharmaceutical products. Earlier this year, Bloomberg News [reported](#) on the deaths of 20 children in Uzbekistan related to tainted cough syrup according to tests by the Uzbek government. ImportGenius used trade data from India to track air shipments to other countries of potentially tainted batches that were then reported to the World Health Organization to help prevent other children from taking the potentially toxic medicine. In cases like this, transparency can literally save lives. Since pharmaceuticals are often shipped by air, this level of vigilance is not possible with the U.S. data available today. We should not be relying on data from other countries to keep American consumers safe. There is no reason to continue this dangerous gap in U.S. trade data transparency.

In addition to unsafe products, investigative journalists and other members of civil society rely on CBP trade data to uncover the use of slave labor around the globe. That work is critical in assisting CBP's enforcement of Section 307 of the Tariff Act of 1930, which prohibits importing any product that was mined, produced, or manufactured wholly or in part by forced labor. In 2012, the ImportGenius platform helped [uncover](#) American imports of seafood produced with slave labor. Subsequent investigations by the Associated Press were instrumental in the end of the consumptive demand exception in the Tariff Act, a loophole that allowed the importation of goods produced with forced labor if the "consumptive demand" for those goods in the United States exceeded domestic production. In 2015, Congress closed the loophole with bipartisan support by passing the Trade Facilitation and Trade Enforcement Act. The Associated Press reporting was also [recognized](#) with the Pulitzer Prize for Public Service in 2016. One of the journalists on the Pulitzer-winning team called ImportGenius one of her "favorite tools" for digging into supply chains.

In 2021, Congress again strengthened the law to prevent American support for the Chinese Communist Party's human rights violations by passing the Uyghur Forced Labor Prevention Act (UFLPA). The bill passed the House with overwhelming bipartisan support, 428 to 1. The UFLPA created a rebuttable presumption that goods produced in the Xinjiang Uyghur Autonomous Region of the People's Republic of China violate Section 307 of the Tariff Act. I am encouraged by this effort to remove forced labor from all supply chains, the Administration's efforts to implement the law, including the launch of the UFLPA Statistics Dashboard in March, and recent congressional oversight efforts from this committee, the Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party, and others. Unfortunately, the current lack of air cargo transparency is undermining these efforts.

ImportGenius data has helped uncover forced labor in the supply chain of various products, but more would be possible with visibility into air shipments. Many of the products—such as laptops and lithium batteries—appear on the Bureau of International Labor Affairs List of Goods

Produced by Child Labor or Forced Labor because of their links to forced labor in Xinjiang are typically shipped by air. Moreover, the law puts the onus on importers to monitor their own supply chains, but this means importers need access to information to help them do this. Our data was used to connect the dots in an investigation that tied shipments to the United States of human hair to forced labor camps in Xinjiang unbeknownst to the U.S. importers. Expanding manifest data transparency to air would significantly aid government enforcement, but it would also help companies clean up their supply chains proactively.

Our customers are using CBP trade data to help them comply with the law and to vet their suppliers. You could compare the insights we offer our clients to the information credit reporting agencies provide to lenders. But ImportGenius provides data tools that go well beyond a credit score. We offer rich historical records that help American companies understand their supply chains and make risk-based decisions about their suppliers. The current blind spot for air imports prevents American companies from seeing connections that are necessary to make the most informed decisions. This transparency gap exposes American companies to unnecessary risk.

More transparent trade data will also help us improve America's response to emergencies. Take for example our work to track the supply of swabs and personal protective equipment during the COVID-19 pandemic. Unfortunately, when the crisis hit, we saw maritime shipments of swabs and N-95 masks plummet. That was in part because the urgency of the moment shifted imports from maritime to air, and we lost the visibility of those shipments. In times of crisis, key supplies are almost universally shipped via air freight. Expanding transparency to include air cargo manifests will improve our response to future emergencies.

The law has not kept pace with the reality of how goods are transported across borders. Updated disclosure rules requiring CBP to disclose air data are long overdue.

It is important for the Committee to know that we were close to having this data available if not for a technical drafting error nearly thirty years ago. In 1996, Congress passed the Anticounterfeiting Consumer Protection Act (ACPA) which aimed to improve enforcement and aid seizure of counterfeit goods. Section 11 of the ACPA amended the Tariff Act of 1930 to permit the public disclosure of aircraft manifests under the same terms as maritime vessel shipments. The Senate report accompanying the legislation noted that the change "eliminates the unwarranted and out-of-date distinction between information required about goods shipped by sea as compared to goods shipped by air."<sup>[1]</sup> Unfortunately, that change is not reflected in the law today.

Just three months after the ACPA was enacted, Congress passed the Miscellaneous Trade and Technical Corrections Act of 1996, which resulted in a confusing repetition of the word “vessel” in the statute. Today, Section 1431(c)(1) reads: “Except as provided in subparagraph (2), the following information, when contained in a vessel vessel [sic] or aircraft manifest, shall be available for public disclosure.” Courts have interpreted the section to limit CBP’s required publication of maritime data. This is disappointing as greater disclosure of manifest data is an invaluable tool in identifying counterfeit merchandise and the location of those counterfeiters as the ACPA intended. Today, companies continue to miss unauthorized shipments of counterfeit goods because of the failure to clearly eliminate what was seen as an “unwarranted and out-of-date distinction” nearly thirty years ago.

This Congress has the opportunity to greatly expand transparency but should also be mindful of privacy concerns. Earlier this month, the Senate passed by unanimous consent the bipartisan Moving Americans Privacy Prevention Act (S. 758), introduced by Senators Steve Daines (R-MT), Gary Peters (D-MI), Roger Marshall (R-KS), and Debbie Stabenow (D-MI). This bill would help reduce the risk that personal information, such as Social Security and passport numbers, would be inadvertently disclosed amongst commercial trade data. ImportGenius supports this and other nuanced efforts to protect individuals’ privacy while simultaneously expanding the availability of commercial trade data arriving by air and land.

In closing, improving the public disclosure of import data for air and land manifests supports the stated goals of the 21st Century Customs Framework (21CCF). In CBP’s own [words](#), “the complexities of the modern supply chain have made it increasingly difficult to identify and deter violative behavior...reform is needed in order to protect American workers and business [and] ensure fair competition...” First among the agency’s goals for the 21CCF is achieving supply chain transparency, as “Improved visibility into global supply chains will strengthen CBP’s ability to root out violative actors, supporting ethical production methods and leveling the playing field for domestic industry.” ImportGenius agrees and urges Congress to require CBP to adhere to the goal of increased supply chain transparency.

I am encouraged by what I have heard from both Republican and Democratic Members of the House and Senate about their interest in a broad effort to modernize our customs laws. Any such effort must include air manifest data transparency. But I do not think we need to wait for such an ambitious effort to make this right. There is no reason to wait any longer to correct and clarify what Congress knew was an “unwarranted and out-of-date” distinction between maritime and other modes of transport nearly thirty years ago. I respectfully ask this committee to bring forward legislation to require the publication of air data on the same terms that CBP publishes maritime data today. Pairing this critical legislation with Senators Daines’ and Peters’ proposal to

protect the privacy of personal shipments from disclosure would dramatically improve our understanding of global trade and human rights abuses by the Chinese Communist Party and other bad actors around the world.

Whether it be a pandemic, war, transnational criminal organizations, or forced labor, customs data can provide greater awareness and inform decision-making for the private sector, NGOs, and government stakeholders. ImportGenius encourages Congress to increase required transparency of customs manifest data, especially for air cargo. ImportGenius stands ready to serve as a resource to each of your offices and the committee as it continues this critical work. Thank you, and I look forward to your questions.

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[1] S. REP. NO. [104-177](#), at 11 (1996).